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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/773,721 | 02/06/2004 | Arnold Jager | JAP 0103W | 8323 |

7590 11/07/2005

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EXAMINER

BUSHEY, CHARLES S

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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1724

DATE MAILED: 11/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/773,721

Applicant(s)

JAGER, ARNOLD

Examiner

Scott Bushey

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 11-13, and 19 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ott '296 (Figs. 1 and 2; col. 4, lines 8-16, 24-29).
3. Claims 11, 12, and 14 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Ott '729 (Figs. 1 and 2; paragraphs [0038] and [0039]).
4. Claims 11, 12, and 15 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Jager et al (Figs. 6-9; paragraphs [0027] and [0028]).

Applicant should note that the profiled support member (1) as depicted by Figure 6 of the reference includes recessed areas (1') on the sides thereof, and member (1) has a "nearly" circular cross-sectional configuration. It is noted that the instant specification does not limit the shape of "nearly" circular cross-section to any particular degree. Also, the term "nearly" is a relative term, which generally does not provide claim language with such specificity as to define over a prior art reference that otherwise teaches the invention as claimed.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 15-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jager et al.

Jager et al (Figs. 6-9; paragraphs [0027] and [0028]) as applied above substantially disclose applicant's invention as recited by instant claims 15-18, except for the specific shape of the fillers, which restore the shape of the outer contour of the profiled support member to circular, or to the shape the support member would have without the recessed areas therein. The reference does disclose filler members (Figs. 7-9) for converting the generally rectangular shaped support member to circular so as to allow for conventional clamping of the membrane using hose type clamp means (11). The reference also discloses an embodiment of the profiled support member (Fig. 6), which includes recessed areas disposed on the sides of the support. It would have been obvious for an artisan at the time of the invention, given the entire disclosure of the Jager et al reference, to provide shaped filler members to cooperate with the profiled support member of the Fig. 6 embodiment of the reference, such that the recessed areas (1') thereof would be restored to circular, so as to facilitate ease of clamping of the membrane to the support by way of conventional hose clamp means, as disclosed by Jager et al at (11 in Fig. 1). It would have also been obvious for an artisan at the time of the invention, to construct the filler elements from rubber or a similar material, since such would allow for some flexing thereof to facilitate clamping of the membrane, as well as conforming to the contour of the profiled support member.

7. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ott '296.

Ott '296 (Figs. 1 and 2; col. 4, lines 8-16, 24-29) as applied above substantially disclose applicant's invention as recited by instant claim 20, except for the specific recitation that the membrane does not have slits at the point of securement to the profiled support member. Wherein band clamp (54) would both occlude and hold closed any slits that were present in the area of securement, it would have been obvious for an artisan at the time of the invention, to provide the membrane without slits in the region to be clamped, since such would provide a membrane less likely to tear or rupture.

Response to Arguments

8. Applicant's arguments with respect to claims 11-20 have been considered but are moot in view of the new grounds of rejection.

9. Applicant's amendment necessitated the new grounds of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Bushey whose telephone number is 571 272-1153. The examiner can normally be reached on M-Th 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on 571 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

csb
11-2-05

Scott Bushey
Primary Examiner
Art Unit 1724


11-2-05